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PTO/SB/21 (03-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

51

Application Number

09/694,136

Filing Date

23 October 2000

First Named Inventor

Herbert M. Straub

Art Unit

1774

Examiner Name

Lawrence Ferguson

Attorney Docket Number

20003

ENCLOSURES (Check all that apply)

- | | | |
|--|---|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form | <input type="checkbox"/> Drawing(s) | <input type="checkbox"/> After Allowance Communication to a Technology Center (TC) |
| <input checked="" type="checkbox"/> Fee Attached | <input type="checkbox"/> Licensing-related Papers | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences |
| <input type="checkbox"/> Amendment/Reply | <input checked="" type="checkbox"/> Petition | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information |
| <input type="checkbox"/> Affidavits/declaration(s) | <input type="checkbox"/> Power of Attorney, Revocation | <input type="checkbox"/> Status Letter |
| <input type="checkbox"/> Extension of Time Request | <input type="checkbox"/> Change of Correspondence Address | <input type="checkbox"/> Other Enclosure(s) (please identify below): |
| <input type="checkbox"/> Express Abandonment Request | <input type="checkbox"/> Terminal Disclaimer | |
| <input type="checkbox"/> Information Disclosure Statement | <input checked="" type="checkbox"/> Request for Refund | |
| <input type="checkbox"/> Certified Copy of Priority Document(s) | <input type="checkbox"/> CD, Number of CD(s) _____ | |
| <input type="checkbox"/> Response to Missing Parts/Incomplete Application | Remarks | |
| <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | | |

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual

Richard L. Marsh

Signature

Date

27 March 2003

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date:

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Typed or printed

Richard L. Marsh

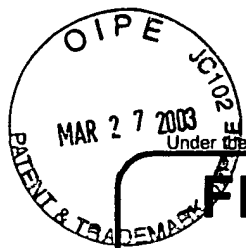
Signature

Date 27 March 2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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APR 01 2003
OFFICE OF PETITIONS



PTO/SB/17 (01-03)

Approved for use through 04/30/2003. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 130.00)

Complete if Known

| | | |
|----------------------|-------------------|---------------------|
| Application Number | 09/694,136 | RECEIVED |
| Filing Date | 23 October 2000 | APR 01 2003 |
| First Named Inventor | Herbert M. Straub | |
| Examiner Name | Lawrence Ferguson | OFFICE OF PETITIONS |
| Art Unit | 1774 | |
| Attorney Docket No. | 20003 | |

METHOD OF PAYMENT (check all that apply)

☐ Check ☒ Credit card ☐ Money Order ☐ Other ☐ None☐ Deposit Account:Deposit Account Number
Deposit Account Name

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments
☐ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|--------------|----------|--------------|----------|------------------------|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1001 | 750 | 2001 | 375 | Utility filing fee | |
| 1002 | 330 | 2002 | 165 | Design filing fee | |
| 1003 | 520 | 2003 | 260 | Plant filing fee | |
| 1004 | 750 | 2004 | 375 | Reissue filing fee | |
| 1005 | 160 | 2005 | 80 | Provisional filing fee | |
| SUBTOTAL (1) | | | | (\$) | |

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

| | Extra Claims | Fee from below | Fee Paid |
|--------------------|--------------|----------------|----------|
| Total Claims | -20** = | X | |
| Independent Claims | -3** = | X | |
| Multiple Dependent | | | |

| Large Entity | | Small Entity | | Fee Description |
|--------------|----------|--------------|----------|--|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | |
| 1202 | 18 | 2202 | 9 | Claims in excess of 20 |
| 1201 | 84 | 2201 | 42 | Independent claims in excess of 3 |
| 1203 | 280 | 2203 | 140 | Multiple dependent claim, if not paid |
| 1204 | 84 | 2204 | 42 | ** Reissue independent claims over original patent |
| 1205 | 18 | 2205 | 9 | ** Reissue claims in excess of 20 and over original patent |
| SUBTOTAL (2) | | | | (\$) |

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

| Large Entity | | Small Entity | | Fee Description | Fee Paid |
|-----------------------------------|----------|--------------|----------|--|----------|
| Fee Code | Fee (\$) | Fee Code | Fee (\$) | | |
| 1051 | 130 | 2051 | 65 | Surcharge - late filing fee or oath | |
| 1052 | 50 | 2052 | 25 | Surcharge - late provisional filing fee or cover sheet | |
| 1053 | 130 | 1053 | 130 | Non-English specification | |
| 1812 | 2,520 | 1812 | 2,520 | For filing a request for ex parte reexamination | |
| 1804 | 920* | 1804 | 920* | Requesting publication of SIR prior to Examiner action | |
| 1805 | 1,840* | 1805 | 1,840* | Requesting publication of SIR after Examiner action | |
| 1251 | 110 | 2251 | 55 | Extension for reply within first month | |
| 1252 | 410 | 2252 | 205 | Extension for reply within second month | |
| 1253 | 930 | 2253 | 465 | Extension for reply within third month | |
| 1254 | 1,450 | 2254 | 725 | Extension for reply within fourth month | |
| 1255 | 1,970 | 2255 | 985 | Extension for reply within fifth month | |
| 1401 | 320 | 2401 | 160 | Notice of Appeal | |
| 1402 | 320 | 2402 | 160 | Filing a brief in support of an appeal | |
| 1403 | 280 | 2403 | 140 | Request for oral hearing | |
| 1451 | 1,510 | 1451 | 1,510 | Petition to institute a public use proceeding | |
| 1452 | 110 | 2452 | 55 | Petition to revive - unavoidable | |
| 1453 | 1,300 | 2453 | 650 | Petition to revive - unintentional | |
| 1501 | 1,300 | 2501 | 650 | Utility issue fee (or reissue) | |
| 1502 | 470 | 2502 | 235 | Design issue fee | |
| 1503 | 630 | 2503 | 315 | Plant issue fee | |
| 1460 | 130 | 1460 | 130 | Petitions to the Commissioner | 130.00 |
| 1807 | 50 | 1807 | 50 | Processing fee under 37 CFR 1.17(q) | |
| 1806 | 180 | 1806 | 180 | Submission of Information Disclosure Stmt | |
| 8021 | 40 | 8021 | 40 | Recording each patent assignment per property (times number of properties) | |
| 1809 | 750 | 2809 | 375 | Filing a submission after final rejection (37 CFR 1.129(a)) | |
| 1810 | 750 | 2810 | 375 | For each additional invention to be examined (37 CFR 1.129(b)) | |
| 1801 | 750 | 2801 | 375 | Request for Continued Examination (RCE) | |
| 1802 | 900 | 1802 | 900 | Request for expedited examination of a design application | |
| Other fee (specify) | | | | | |
| *Reduced by Basic Filing Fee Paid | | | | | |
| SUBTOTAL (3) | | | | (\$ 130.00) | |

SUBMITTED BY

| | | | | | |
|-------------------|------------------|-----------------------------------|---------------|-----------|--------------|
| Name (Print/Type) | Richard L. Marsh | Registration No. (Attorney/Agent) | 31,637 | Telephone | 417 887-8441 |
| Signature | | Date | 27 March 2003 | | |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :
Straub, et al. : Group Art Unit # 1774
Serial No. 09/694,136 : Examiner: L. Ferguson
Filed: 23 October 2000 : Date: 27 March 2003
:
For: DECORATIVE MOLDING, :
DECORATIVE OVERLAYS AND :
FOILS THEREFOR AND METHODS: :
AND APPARATUS FOR MAKING :
THE SAME :

The Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20231

PETITION FOR RECOVERY OF FEES & RESETTING OF PATENT TERM
ADJUSTMENT

RECEIVED

APR 01 2003

OFFICE OF PETITIONS

Sir:

This petition under 37CFR1.181 is for the purpose of requesting a refund of \$205.00 of the extension fee paid by Applicants in an attempt to advance this application to issue, requesting a refund of the \$375.00 fee for filing the RCE, requesting a refund of the \$130.00 fee paid with this petition and for re-establishing the patent term adjustment provisions of 37CFR1.702, all the above due to at least one delay caused by the Office in the examination of this application.

FEES:

Applicants have included the 37CFR1.17(a) fee of \$130.00 for this petition under 37CFR1.181 and believe that no additional fees are required, however, Applicants respectfully request prompt notification in case missing fees are required in order correct such deficiency in a timely manner so that this petition will be fully effective on the filing date thereof.

Straub, et al., Docket 20003

1

March 27, 2003

03/31/2003 AWONDAF1 00000096 09694136

01 FC:1460

130.00 0P

REMARKS:

Applicants provide the following statement of facts in accordance with 37CFR1.181(b) and petition the commissioner under 37CFR1.181(a)(1) for redress of the actions of the Office and for delays caused by the Office in the examination of the above cited application. Applicants aver that this petition is timely filed within two months of the last action from which relief is requested. Applicants further petition the Commissioner under 37CFR702(a)(1) and 37CFR702(a)(2) for re-establishing the patent term adjustment provisions as it is Applicants' belief that the rejections are based upon the desire of Office to avoid entry of the record of delay by requiring Applicants to file a Request for Continued Examination.

FACT SUMMARY STATEMENTS

- 1.) Applicants filed this application on 23 October 2000 and were granted Serial Number 09/694,136 effective that date.
- 2.) The Office mailed the first office action on 08 May 2002, a delay of four and one-half (4½) months beyond the time frame of fourteen (14) months specified in 37CFR1.702(a)(1). Therefore, Applicants respectfully request resetting of the PTA.
- 3.) In the first telephone call on September 26, 2002, after receipt of the Final Office Action, Applicants discussed the Final Rejection with the Examiner and requested language to make the claims allowable to the Office. Applicants are not aware that any interview summary was entered into the record.
- 4.) The Office did not return the telephone call by Applicants on October 23, 2002 until October 28, 2002. The Office failed to provide an interview summary of the telephone conversation on October 28, 2002.
- 5.) The Office failed to respond to the information provided by Applicants in the interview of October 28, 2002 thus denying Applicants the opportunity to prepare an Amendment After Final having the benefit of the Examiner's review of the requested information, though Applicants specifically requested the Examiner's assistance.
- 6.) The Office did not provide suggestions to Applicants in a telephonic interview with the Office on 04 November 2002. In that interview initiated by the Office, the

Examiner requested a written summary of the issues discussed in this and previous telephonic interviews. The Office failed to provide an interview summary of the telephone conversation on November 4, 2002.

- 7.) Applicants produced a written summary of the issues discussed in the telephonic interviews of September 26, October 28 and November 4, 2002 and faxed the written summary to the Office to the private fax number provided by the Examiner.
- 8.) The Office failed to respond to the fax information provided by Applicants on November 7, 2002 as requested by the Examiner in the interview of November 4, 2002 thus denying Applicants the opportunity to prepare an Amendment After Final having the benefit of the Examiner's review of the requested information, though Applicants specifically requested the Examiner's assistance in the interview and in the information faxed on November 4, 2002.
- 9.) Applicants attempted to determine the status of the application and receive positive feedback from the Office in a telephone call on December 13, 2002, leaving a detailed message on the answering machine requesting a return call. The Office failed to respond to this telephone call.
- 10.) Applicants again attempted to determine the status of the application and receive positive feedback from the Office in a telephone call on December 23, 2002, the eve of the shortened statutory period. The Office failed to answer this telephone call and therefore, Applicants filed an Amendment After Final combining the information previously provided by fax on October 28, 2002 and November 4, 2002 into the Amendment After Final. Thus, Applicants respectfully request a refund of the fees paid for extending the time for response and for filing the RCE.
- 11.) The Office responded to Applicants Amendment After Final filed on 23 December 2002 with an Advisory Action on January 10, 2003 already into the first month after the shortened statutory period and without providing specific guidance to Applicants regarding language to render the claims allowable as requested by Applicants.
- 12.) Upon return of the undersigned Agent for Applicants to the USA, Applicants filed

an Amendment After Final on 30 January 2003, canceling claims 16 and 19 having the term “metallic” therein and amending the remaining claims by inserting the word “paper” and deleting the word “molding.” Applicants filing of an Amendment After Final on 30 January 2003 necessitated payment of the fee for extension of time, this \$205 fee paid with the filing of the RCE below.

- 13.) The Office responded to Applicants Amendment After Final filed on 30 January 2003 with an Advisory Action on February 12, 2003 stating that inclusion of the word “paper” and deletion of the word “molding” raise new issues and the amendment would not be entered into the record. Nothing in the Advisory Action gives Applicants guidance regarding language to render the claims allowable as requested by Applicants.
- 14.) On February 19, 2003, Applicants called the Office, and, failing a response within 1 business day, on February 21, 2003, Applicants filed a RCE with the requisite fee of \$375.00 plus the fee for extension of time in the second month of \$ 205.00 in order to avoid payment of further extension fees.
- 15.) The Office did not return the telephone call by Applicants on February 19, 2003 until February 26, 2002, five business days later, now into the third month after the shortened statutory period.

DETAILED REMARKS OF FACT SUMMARY STATEMENTS

1.) Applicants mailed the application in question for a “Decorative Molding, Decorative Overlays and Foils Therefor and Methods and Apparatus for Making the Same” by Express Mail-Post Office to Addressee, with a certificate of mailing under 37CFR1.10, on 23 October 2000 receiving Serial Number 09/694,136 effective on the date of mailing as shown on Exhibit A, the PAIR File Contents History, attached hereto. The application was timely filed as a non-provisional application under 35 U.S.C. 111 (a) of a Provisional Application for Patent, Serial Number 60/184,021 filed February 22, 2000. The non-provisional application was complete, and, as shown on Exhibit A, item 2, was scanned on 29 November 2000. The Correspondence Address Change in item 3 of the PAIR record did not require action by Applicants and was apparently an entry by the Office from the filing papers. As further noted in the PAIR record,

the application was dispatched from OIPE on December 20, 2000, first docketed on January 19, 2001 and later docketed on February 16, 2001. Applicants made telephone inquiry of the Office to the Examiner listed on the PAIR record on August 31, 2001 to determine the docketing placement of this application, and, receiving no response, inquired again September 5, 2001. Applicants made further inquiry on September 7 to the Technology Center telephone 703-308-0661 listed on the PAIR record and were referred to OPDD at 703-308-6789 which referred Applicants to Technology Center 1700 at 703-308-5665 which, in turn, referred Applicants to the Examiner of record. Another telephone inquiry was made to the Office on September 10, 2001, and, a now understandably terse response was received from the Office on September 11, 2001 referring Applicants to the Office Action. Since no Office Action had been issued, and in view of the events of September 11, 2001, Applicants did not make further telephone inquiry until February 11 & 12, 2002, however, periodically Applicants continued to refer to PAIR for information. Tragic as the events of September 11, 2001 were, Applicants should not be denied the Patent Term Adjustment provisions of 37CFR1.702(a)(1) due to the failure of the Office to timely act upon an application. The records of outgoing telephone calls are highlighted in Exhibit B, C and D. Periodic PAIR page records appear in Exhibit E, dated 09/18/01 and Exhibit F dated 01/04/02. No further changes appeared in the PAIR record until March 26, 2002 (Exhibit G, dated 04/10/02) where the application was docketed for a third time in the same Art Unit of the Office. Applicants believe that this application would not have been re-docketed on March 26, 2002 absent Applicants inquiries of February 11 and 12, 2002.

2.) According to the established business goals of the Office and as detailed in 37CFR1.702(a)(1), a notification under 35USC132 is to be mailed not later than fourteen months after the date on which the application was filed under 35USC111(a). The Office mailed the first Office Action on 08 May 2002, as shown in Exhibit H, a delay of at least 134 days beyond the time frame of fourteen (14) months specified in 37CFR1.702(a)(1). Additionally, the scant six week period of time between docketing and first Office Action appears to be extremely short and thus appears to Applicants to be an hurried examination of the difficult subject matter in this lengthy and complicated specification, including the confusing use of terms as will hereinafter be discussed. Referring now to Exhibit I, printed on or about

August 31, 2002, it can be seen that Applicants provided a timely response to the first Office Action on 08 July 2002. In that Amendment, Applicants amended all claims to be consistent with industry standard terms and provided an explanation of the industry standard terms used in the specification. Specifically, Applicants differentiated between the “wrapping film” as being the subject of the invention from the “hot transfer foil,” including “metallic hot transfer foil,” used to manufacture the “wrapping film” in a bona fide attempt to advance the application to allowance. Applicants also provided traverse of the Examiner’s rejections based on prior art with regard to the use of the term “foil” as Applicants believe that the Examiner’s rejections are based upon applying the common usage of the term “foil,” as in “aluminum foil” to the “wrapping film” of the invention. Since Applicants amended all claims by using industry standard terms and provided explanation of the terms along with the proper traverse of the arguments based on prior art, Applicants believe that the rejections based on the cited prior art use of “aluminum foil” were overcome. Notwithstanding Applicants amendments and explanations, a final rejection was mailed on September 24, 2002 wherein the rejections are repeated verbatim, including matter canceled by Applicants in Amendment A. Specifically, paragraphs 3 through 7 of the first Office Action, paper # 3, are repeated verbatim as paragraphs 2 - 6 in the Final Office Action, paper # 5, including rejections on matter canceled by Applicants in Amendment A above. A copy of the first Office Action is attached as Exhibit J and a copy of the Final Office Action is included as Exhibit K with the verbatim paragraphs individually outlined in orange highlighter. Matter used in the final rejection which Applicants had deleted from the original claims in Amendment A is highlighted in pink. The verbatim rejections and the response to arguments in the Final Office Action do not give guidance to Applicants to amend the claims in order to advance the application to allowance. Though the Examiner provides a response to Applicants’ arguments presented in Amendment A, since the Examiner again uses the canceled matter as a basis for the contention that the arguments are not persuasive, Applicants believe that Amendment A was not given due consideration. Additionally, the Office provides no guidance to Applicants to amend the claims in order to advance the application to allowance. Applicants also note that the Final Rejection is dated 10 weeks after being forwarded to the Examiner while consideration of the original

application required only six weeks from the docketing date.

3.) Upon receipt and review of the Final Office Action on September 26, 2002, Applicants conducted a telephone interview with the Office wherein Applicants discussed the Final Rejection with the Examiner. In this telephone conversation, Applicants requested the Examiner's assistance with language to make the claims allowable to the Office. The Examiner did not offer any suggestions. The first call was interrupted and Applicants placed a second call to finish the interview. The record of telephone calls are highlighted on the back of Exhibit L. Applicants are not aware that any interview summary was entered into the record nor was a record of an interview summary noted in subsequent written responses from the Office.

4.) Applicants expected a response by the Office in a few business days, however, when the Office had not responded by October 23, 2002, Applicants again placed a telephone call to the Office, see Exhibit M. The Office did not return the call of October 23, 2002 until October 28, 2002. The issues raised by Applicants were discussed with the Examiner, however, the Office provided no guidance to Applicants. As Applicants had prepared drawings from the cited prior art references for a visual reference in order for Applicants to try to understand the rejections advanced by the Office in the first Office Action, Applicants offered to fax these drawings to the Office for the same visual explanation of the arguments presented in Amendment A. The Examiner accepted the offer and therefore, in the telephone calls by Applicants on October 28, 2002, as listed in Exhibit N, Applicants faxed nine drawing sheets with a cover page to the Office. A copy of the fax cover sheet transmitting the drawings is attached as Exhibit O. No record of the interview is recorded on subsequent communications received from the Office. Applicants maintain that absent Applicants inquiry on October 23, 2002, no action on the telephone interview of September 26, 2002 would have occurred and a further delay in the examination of this application would have also occurred.

5.) No response was provided by the Office within one business day and thus the Office failed to respond to the information provided by Applicants in the interview of October 28, 2002 thus denying Applicants the opportunity to prepare an Amendment After Final having the benefit of the Examiner's review of the requested information, though Applicants specifically requested the Examiner's assistance in the interview. Applicants continued to review the record

to determine a direction acceptable to the Office, though without benefit of the Examiner's comments, Applicants were unable to devise language that might be acceptable. The Office returned the telephone call to Applicants on November 4, 2002, one week after Applicants faxed the drawings to the Office.

6.) In the November 4, 2002 telephonic interview initiated by the Office, the Examiner requested a summary of the issues discussed in the interviews of September 26, October 28 and November 4, 2002 with reference to the drawings. The Office did not provide guidance to Applicants to restructure the claims during this interview. No record of the interview is recorded on subsequent communications received from the Office.

7.) Applicants produced a summary of the issues discussed in the interviews of September 26, October 28 and November 4, 2002 as requested by the Office and faxed same to the Office on November 7, 2002 directly to the private fax number provided by the Examiner. The telephone fax record is shown in Exhibit N. The PAIR record records this communication as an Amendment After Final although the document is titled Summary of Issues Raised in Telephone Interview and was sent to the private fax number provided by the Examiner. See Exhibit P. As this was a summary requested by the Office, Applicants expected a second telephone interview, an amended Office Action, an Advisory Action or a notice of allowance. Applicants did not receive any communication from the Office with regard to the information provided to the Office in the fax of November 7, 2002. The only record of this communication appears in the PAIR record.

8.) As the Office failed to respond to the information Applicants provided by fax on November 7, 2002 as requested by the Examiner in the interview of November 4, 2002, Applicants have been denied the opportunity to prepare an Amendment After Final having the benefit of the Examiner's review of the requested information, though Applicants specifically requested the Examiner's assistance in the interview and in the information faxed on November 4, 2002. Applicants again reviewed the record from the Office to date, but absent any new language from the Office, Applicants could not devise claim language that Applicants believed to be acceptable to the Office.

9.) As the end of the shortened statutory period was quickly approaching, Applicants

attempted to determine the status of the application and receive positive feedback from the Office in a telephone call on December 13, 2002. The record of the call appears at the top of the second half of the call record in Exhibit Q. Applicants left a detailed message on the answering machine noting the urgency of the request and requesting a return call. The Office failed to respond to this telephone call. Applicants believe that Applicants inquiry on December 13, 2002, precipitated the forwarding of the summary of interview issues as shown in item 15 of the PAIR record, Exhibit R, and absent that telephone call, no action on this application would have occurred and a further delay in the examination of this application would have also occurred.

10.) Referring again to Exhibit P, the PAIR record enters the 07 November 2002 fax information as an Amendment After Final but shows the information to be “forwarded to the Examiner” on December 20, 2002, six weeks after being received by the private fax at the number provided by the Examiner. As stated above, Applicants believe that telephone call on December 13, 2002 initiated the action shown in item 15 of the PAIR record and had that call not been placed, no action would have been taken and thus Applicants believe that unnecessary delay has been caused by the Office in the examination of this application. Applicants once again contacted the Office with regard to the November 7, 2002 communication in a telephone call on December 23, 2002, the day before expiration of the shortened statutory period. Refer to the call dated 12/23 highlighted in the upper half of Exhibit Q. By this date, Applicants have attempted to advance the application to allowance on at least six occasions, offering assistance to the Office in the form of drawings and complying with the Examiner’s request for a summary of issues raised in the telephonic interviews, yet have not received any feedback from the Office on restructuring the claims to be allowable. Accordingly, Applicants have been again denied the privilege of the Examiner’s review of the information provided and could not properly prepare an Amendment After Final. Since the end of the shortened statutory period was near and Applicants had not yet received positive communication from the Office, Applicants inserted the drawings previously supplied on October 28, 2002 into the text of the summary of issues faxed on November 7, 2002 and filed the combined document as an Amendment After Final. Transmission of the Amendment After Final to Right Fax at TC1700 is recorded in Exhibit Q in

the lower half and is shown in the PAIR record Exhibit R. Throughout the prosecution of this application, Applicants have been diligent in advancing the application, however without a response from the Office, Applicants have been at an extreme disadvantage.

11.) It is believed by Applicants, that had the Amendment After Final not been filed on 23 December, 2002, no response, advisory action nor return phone call would have ever been provided to Applicants because the Advisory Action issued by the Supervisory Patent Examiner at the Office responded to the Amendment After Final filed on 23 December 2002 but does not mention any other communication between Applicants and the Office including any reference to the telephonic interviews, the drawings faxed on 28 October, 2002 nor the Summary of Issues faxed on 7 November 2002. Furthermore, the Advisory Action was not mailed until January 10, 2003 and Applicants could not respond within the first month after the end of the shortened Statutory period as the undersigned Agent for Applicants was out of the country for the period 11 January 2003 through 25 January 2003. Additionally, the Advisory Action of 10 January 2003, provides little, if any, further guidance to Applicants as the Advisory Action merely repeats information provided in the previous Office Actions. The Advisory Action appears to infer that the term “metallic” is read into every claim even though Applicants only use the term in two **dependent claims** 16 and 19 and thus Applicants believe that canceling these two dependent claims having language reciting the metallic nature of the transfer material would not have advanced the application. If the Office believed, however, that canceling of the two dependent claims would place the entire application in condition for allowance, Applicants believe that any one of the communications between the Office and Applicants listed in paragraphs 3 through 10 above would have afforded Applicants ample time to so amend the application. However, by the time of the mailing of the Advisory Action on January 10, 2003, Applicants are already in an additional fee period and, due to the timing of the response, were advanced into the second month beyond expiration of the shortened statutory period. Applicants therefore respectfully request refund of the entire amount of \$205.00 necessitated by the failure of the Office to respond to Applicants’ communications of September 26, October 23, November 7, December 13 and December 23 or to give any additional response in the Office communications of October 28 and November 4, 2002. The date of mailing of the

Advisory Action is recorded as item 18 in the PAIR record on January 10, 2003, Exhibit R.

12.) Though Applicants previously believed that canceling the two dependent claims further limiting the independent claim to a “metallic” ink foil would not have been effective to advance the application, Applicants carefully reviewed the Advisory Action mailed on January 10, 2003, the first Office Action of May 10, 2002, and the Final Office Action of 24 September 2002, and now believed that the use of the terms “metallic” and “molding” were the primary objections to the pending claims. Accordingly, as Applicants were still confident that a timely filed Amendment After Final would be effective in advancing this application to allowance, Applicants filed a second Amendment After Final on 30 January 2003, canceling claims 16 and 19 having the term “metallic” therein and amending the remaining claims by inserting the word “paper” and deleting the word “molding,” in a bona fide attempt to advance the application by addressing these specific objections. Thus, in this second Amendment After Final filed on 30 January 2003, Applicants recite that a “paper” decorative wrapping film is the claimed invention and therefore further distinguish the inventive paper decorative wrapping film from a “metallic” aluminum foil. Applicants believed that by distinguishing the inventive decorative wrapping film from other decorative wrapping films by claiming only a “paper decorative wrapping film” and the removal of the intended use term “molding” from the claims would put the application in condition for allowance based upon the limited language of the Advisory Action. Again, Applicants maintain that the information contained in the Advisory Action could have, and should have, been communicated to Applicants during the earlier prosecution periods. Thus, there has not only been unnecessary delay in the examination of the application but unnecessary payment of fees by Applicants. The record of receipt of the second Amendment After Final Action is recorded in the PAIR record, Exhibit R on January 30, 2003 as Item 20.

13.) The Office responded to Applicants second Amendment After Final filed of 30 January 2003 with an Advisory Action on February 12, 2003 stating that the proposed new amendments raise new issues though the continuation states that “Applicant(sic) further limit(s)(sic) the scope of the claims by deleting molding and adding ‘paper’ to all of the claims. Applicants maintain that if the language **further limits** the scope of the claims, the rejections have been overcome and a timely filed amendment has, in fact, been made and that the

application should be allowed. No further consideration should be required as the Office has already considered more limited prior art references in the initial examination. Thus, Applicants believe that the rejections were based upon the use of the terms “metallic” and “molding” and therefore Applicants amendments of 30 January 2003 overcame these rejections putting this application in condition for allowance. Applicants further maintain, as stated above, that since these two terms were the primary, and apparently, only basis for rejection, that the Office could have, and should have, so informed Applicants in any one of the communications during either or both of the two shortened statutory periods and could have, and should have, made the same clear in either the First Office Action or the Final Office Action. Applicants thus believe that failure of the Office to **clearly communicate** the basis for the primary rejections has resulted in the additional delays in examination of this application and that Applicants are fully entitled to restitution of the extension fee, the RCE fee and are additionally entitled to extension of the patent term due to at least the delay between filing and first office action and Applicants. The record of the mailing date of the Advisory Action is recorded in the PAIR record, Exhibit R on February 12, 2003 as item 23.

14.) On February 19, 2003, Applicants called the Office, leaving a detailed message requesting assistance in making the claims allowable, and, failing a response within 1 business day, on February 21, 2003, Applicants filed a RCE with the requisite fee of \$375.00 plus the fee for extension of time in the second month of \$ 205.00 in order to avoid payment of further extension fees. The record of the telephone call to the Office is recorded in Exhibit S on February 19, 2003 at 7:41 a.m. Applicants maintain that the Request for Continued Examination was unnecessary as the Office has failed to clearly communicate the reasons for rejections to Applicants and therefore, Applicants respectfully request refund of the \$375 fee for the RCE and also respectfully request refund of the \$205 fee for extending the time period for a response to the Final Office Action as the delays are not of Applicants doing but are delays caused by the Office.

15.) The Office did not return the telephone call by Applicants on February 19, 2003 until February 26, 2002, five business days later, now into the third month after the shortened statutory period. Fortunately for Applicants, Applicants had already filed the RCE thus limiting

further extension fees to two months, however, as hereinbefore fully explained, Applicants believe that the extension fees and fee for the RCE were unnecessary. Furthermore, Applicants believe that the failure of the Office to promptly docket this application for examination and the failure of the Office to respond to the Applicants' telephone calls would reflect poorly upon the Office if the parent application were now allowed. Thus, Applicants believe that the Office has forced the filing of an RCE upon Applicants to circumvent the Patent Term Adjustment provisions of 37CFR1.702(a)(1) in the parent application. Therefore, Applicants respectfully request refund of the extension fee for response in the second month after the end of the shortened statutory period of \$205.00. Applicants additionally respectfully request refund of the filing fee for the Request for Continued Examination of \$375.00 and further respectfully request refund of the \$130.00 fee for the filing of this petition.

In view of the above, Applicants respectfully request refund of the fees paid. An action on the merits of the parent application and allowance thereof is also respectfully requested.

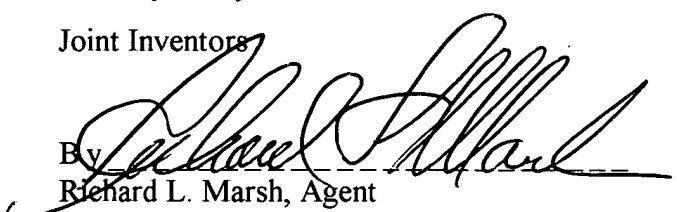
Respectfully submitted,

Herbert M. Straub,

Martin D. Straub and

Timothy D. Ryan

Joint Inventors

By 
Richard L. Marsh, Agent

Registration No. 31,637

4116 E. Latoka

Springfield, Missouri 65809

Date: 27 March 2003

Phone: (417) 887-8441
(417) 887-3731 (home)

Fax: (417) 887-8441



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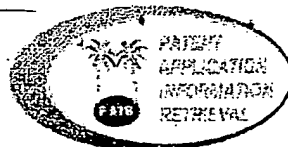
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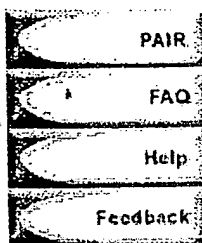
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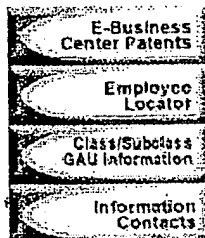


PATENT APPLICATION INFORMATION RETRIEVAL

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Other Links



| Search results for application number: 09/694,136 | | | |
|---|------------------|-------------------------|--|
| Application Filing Date: | 10-23-2000 | Class / Sub-Class: | 428/195.000 |
| Issue Date of Patent: | | Location: | TC 1700 - (703) 308-0661 |
| Examiner Name: | DIXON, MERRICK L | Status: | DOCKETED NEW CASE - AVAILABLE FOR EXAM |
| Group Art Unit: | 1774 2652 | Attorney Docket Number: | 20003 |
| Earliest Publication No: | | Patent Number: | - |
| Earliest Publication Date: | | Customer Number: | 28133 |
| Confirmation Number: | 9008 | | |

Foreign Priority

Continuity Data

File Contents History

| Number | Date | Contents Description |
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| 6 | 02-16-2001 | DATE CASE WAS DOCKETED |
| 5 | 01-19-2001 | DATE CASE WAS DOCKETED |
| 4 | 12-20-2000 | APPLICATION DISPATCHED FROM PRE-EXAM |
| 3 | 12-15-2000 | CORRESPONDENCE ADDRESS CHANGE - ONLY |
| 2 | 11-29-2000 | APPLICATION SCANNED |
| 1 | 10-23-2000 | INITIAL EXAM TEAM XX |

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| 8 | 9/07/01 | 10:19:44A | TO ALEXANDRIA | VA 703 308-6789 | 4:00 | DDC PEAK | | 0.57 | | | | | | | | | |
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SUBTOTAL FOR 417 897 8441 912.51

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| 8 | 2/14/02 | 10:51:57A | TO ALEXANDRIA | VA 703 305-7687 | 3:00 | DDC PEAK | | 0.52 | | | | | | | | | |
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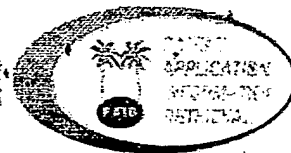
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PATENT APPLICATION INFORMATION RETRIEVAL



Search results for application number: 09/694,136

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| Application Filing Date: | 10-23-2000 | Class / Sub-Class: | 428/195.000 |
| Issue Date of Patent: | - | Location: | TC 1700 - (703) 308-0661 |
| Examiner Name: | DIXON, MERRICK L | Status: | DOCKETED NEW CASE - AVAILABLE FOR EXAM |
| Group Art Unit: | 1774 | Attorney Docket Number: | 20003 |
| Earliest Publication No: | - | Patent Number: | - |
| Earliest Publication Date: | - | Customer Number: | 28133 |
| Confirmation Number: | 9008 | | |

Foreign Priority

Continuity Data

File Contents History

| Number | Date | Contents Description |
|--------|------------|--------------------------------------|
| 6 | 02-16-2001 | DATE CASE WAS DOCKETED |
| 5 | 01-19-2001 | DATE CASE WAS DOCKETED |
| 4 | 12-20-2000 | APPLICATION DISPATCHED FROM PRE-EXAM |
| 3 | 12-15-2000 | CORRESPONDENCE ADDRESS CHANGE - ONLY |
| 2 | 11-29-2000 | APPLICATION SCANNED |
| 1 | 10-23-2000 | INITIAL EXAM TEAM XX |

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Called numerous times From 8/31 - 9/10

Received curt response from Gamma D.xm on 9/11
look on ~~for~~ OFFICER for call numbers
don't bother him.

This pair done 9/18 - STILL NO office action.

703-308 0013 1774



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Search results for application number: 09/694,136

| | | | |
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| Application Filing Date: | 10-23-2000 | Class / Sub-Class: | 428/195.000 |
| Issue Date of Patent: | - | Location: | TECH CENTER 1700 - CENTRAL FILES |
| Examiner Name: | DIXON, MERRICK L | Status: | Docketed New Case - Ready for Examination |
| Group Art Unit: | 1774 | Attorney Docket Number: | 20003 |
| Earliest Publication No: | - | Patent Number: | - |
| Earliest Publication Date: | - | Customer Number: | 28133 |
| Confirmation Number: | 9008 | | |

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|--------|------------|--|
| 6 | 02-16-2001 | Case Docketed to Examiner in GAU |
| 5 | 01-19-2001 | Case Docketed to Examiner in GAU |
| 4 | 12-20-2000 | Application Dispatched from OIPE |
| 3 | 12-15-2000 | Correspondence Address Change |
| 2 | 11-29-2000 | Application Scanned and Dispatched from OIPE |
| 1 | 10-23-2000 | Initial Exam Team nn |

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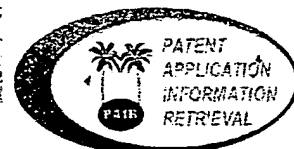
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|----------------------------|----------------------|-------------------------|---|
| Application Filing Date: | 10-23-2000 | Class / Sub-Class: | 428/195.000 |
| Issue Date of Patent: | - | Location: | TECH CENTER 1700 - SPE |
| Examiner Name: | FERGUSON, LAWRENCE D | Status: | Docketed New Case - Ready for Examination |
| Group Art Unit: | 1774 | Attorney Docket Number: | 20003 |
| Earliest Publication No: | - | Patent Number: | - |
| Earliest Publication Date: | - | Customer Number: | 28133 |
| Confirmation Number: | 9008 | | |

Foreign Priority

Continuity Data

Publication Review

File Contents History

| Number | Date | Contents Description |
|--------|------------|----------------------------------|
| 7 | 03-26-2002 | Case Docketed to Examiner in GAU |
| 6 | 02-16-2001 | Case Docketed to Examiner in GAU |
| 5 | 01-19-2001 | Case Docketed to Examiner in GAU |
| 4 | 12-20-2000 | Application Dispatched from OIPE |
| 3 | 12-15-2000 | Correspondence Address Change |
| 2 | 11-29-2000 | Application Scanned |
| 1 | 10-23-2000 | Initial Exam Team nn |

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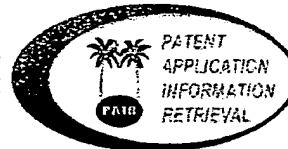
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Search results for application number: 09/694,136

| | | | |
|----------------------------|----------------------|-------------------------|----------------------------------|
| Application Filing Date: | 10-23-2000 | Class / Sub-Class: | 428/195.000 |
| Issue Date of Patent: | - | Location: | TECH CENTER 1700 - CENTRAL FILES |
| Examiner Name: | FERGUSON, LAWRENCE D | Status: | Non Final Action Mailed |
| Group Art Unit: | 1774 | Attorney Docket Number: | 20003 |
| Earliest Publication No: | - | Patent Number: | - |
| Earliest Publication Date: | - | Customer Number: | 28133 |
| Confirmation Number: | 9008 | | |

[Foreign Priority](#)[Continuity Data](#)[Publication Review](#)

File Contents History

| Number | Date | Contents Description |
|--------|------------|----------------------------------|
| 9 | 05-08-2002 | Mail Non-Final Rejection |
| 8 | 05-06-2002 | Non-Final Rejection |
| 7 | 03-26-2002 | Case Docketed to Examiner in GAU |
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| 5 | 01-19-2001 | Case Docketed to Examiner in GAU |
| 4 | 12-20-2000 | Application Dispatched from OIPE |
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| 1 | 10-23-2000 | Initial Exam Team nn |

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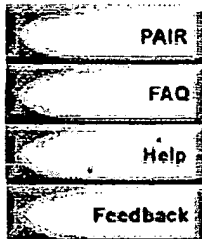


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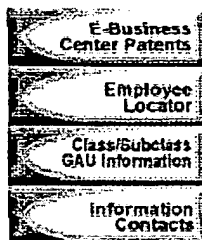
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| Search results for application number: 09/694,136 | | | |
|---|----------------------|-------------------------|---|
| Application Filing Date: | 10-23-2000 | Class / Sub-Class: | 428/195.000 |
| Issue Date of Patent: | | Location: | TECH CENTER 1700 - LIE TEAM 7, CP3, 11C17 |
| Examiner Name: | FERGUSON, LAWRENCE D | Status: | Response to Non-Final Office Action Entered and Forwarded to Examiner |
| Group Art Unit: | 1774 | Attorney Docket Number: | 20003 |
| Earliest Publication No: | | Patent Number: | - |
| Earliest Publication Date: | | Customer Number: | 28133 |
| Confirmation Number: | 9008 | | |

[Foreign Priority](#)

[Continuity Data](#)

[Publication Review](#)

| File Contents History | | |
|-----------------------|------------|----------------------------------|
| Number | Date | Contents Description |
| 11 | 07-17-2002 | Date Forwarded to Examiner |
| 10 | 07-08-2002 | Response after Non-Final Action |
| 9 | 05-08-2002 | Mail Non-Final Rejection |
| 8 | 05-06-2002 | Non-Final Rejection |
| 7 | 03-26-2002 | Case Docketed to Examiner in GAU |
| 6 | 02-16-2001 | Case Docketed to Examiner in GAU |
| 5 | 01-19-2001 | Case Docketed to Examiner in GAU |
| 4 | 12-20-2000 | Application Dispatched from OIPE |
| 3 | 12-15-2000 | Correspondence Address Change |
| 2 | 11-29-2000 | Application Scanned |
| 1 | 10-23-2000 | Initial Exam Team nn |

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/694,136 | 10/23/2000 | Herbert M. Straub | 20003 | 9008 |

28133 7590 05/08/2002

RICHARD L. MARSH
4116 E. LATOKA
SPRINGFIELD, MO 65809

EXAMINER

FERGUSON, LAWRENCE D

ART UNIT

PAPER NUMBER

1774

DATE MAILED: 05/08/2002

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| | | |
|------------------------------|---------------------------------|------------------------------|
| Office Action Summary | Application No. 09/694,136 | Applicant(s) STRAUB ET AL |
| | Examiner Lawrence D Ferguson | Art Unit 1774 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections – 35 USC 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. In claim 1, it is not clear if a “decorative molding wrapping foil” is being claimed as the invention or a “created laminated wrapping foil”.

b. In claim 2, it is not clear if the “decorative molding foil, laminated wrapping foil or intermediate layered foil is being claimed as the invention.

Claim Rejections – 35 USC § 103(a)

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suess et al. (U.S. 5,985,078) in view of Abrams (U.S. 5,908,527).

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5. Suess discloses a metallic embossing foil (abstract) with carrier material that transfers colored layers on a surface (column 3, lines 42-44) conventionally used to wrap articles. Suess discloses a transparent layer applied to the colored layer applied by means of transfer foils which comprise a carrier film which are releasably disposed thereon to a hot embossing foil (column 3, lines 62-67). The reference discloses rolling a molded foil (column 4, lines 33-35) where the colored layer gives the foil a decorative pattern (column 4, lines 56-58 and column 7, lines 14-16). Suess discloses an adhesive layer on the foil (column 5, line 1). Suess does not disclose that the foil is used in foil wrapping of a substrate or as picture frame element or building trim piece. These features are directed to intended use of the claimed invention, which is given little patentable weight. Suess does not disclose the foil being laminated. Additionally the foil of Suess is used to wrap articles. Picture frame elements and building trim pieces are articles and so are included by the reference.

Abrams teaches a printed foil laminate (abstract and column 2, lines 12-15). Suess and Abrams are analogous art because they are from the same field of foils. It would have been obvious to one of ordinary skill in the art to laminate the embossed foil of Suess because Abrams teaches laminated foils maintain composure better during the rolling process.

Claim Rejections – 35 USC § 103(a)

6. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abrams (U.S. 5,653,844) in view of Nelson (U.S. 4,724,026).

7. Abrams discloses a foil laminate with transfer printing (abstract) with impressions in the laminate (column 2, lines 4-5) leaving a decorative pattern with a suitable adhesive. Abrams

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discloses the molded foil laminate suitable to roll (column 2, lines 51-58 and column 4, lines 56-57) suitable to cover various packaging articles (column 7, lines 8-9). Abrams discloses a dry bond adhesive layer with an opaque colored material (column 7, lines 27-44). Suess does not disclose that the foil is ~~used in foil wrapping of a substrate or as picture frame element or building trim piece~~. These features are directed to intended use of the claimed invention, which ~~is given little patentable weight~~. Additionally the foil of Abrams is used to wrap articles. Picture frame elements and building trim pieces are articles and so are included by the reference.

Abrams does not disclose carrier stripped from the foil or clear and opaque properties.

Nelson teaches a metallic foil with a transfer sheet stripped away leaving a decorated sheet on the foil (column 2, lines 40-50) along with a clear or colored coating, a release coat and a carrier film (column 3, lines 39-42) on the foil. Abrams and Nelson are analogous art because they are from the same field of foils. It would have been obvious to one of ordinary skill in the art to include the carrier and release layers with clear or colored coatings in the foil laminate of Abrams because Nelson teaches these layers improve the decorative properties of the film rendering the foil more marketable.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is (703) 305-9978. The examiner can normally be reached on Monday through Friday 8:30 AM – 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. Please allow the examiner twenty-four hours to return your call.

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The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for

After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.

LDF

Lawrence D. Ferguson
Examiner
Art Unit 1774

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

Cynthia H. Kelly

EXHIBIT K



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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/694,136 | 10/23/2000 | Herbert M. Straub | 20003 | 9008 |

28133 7590 09/24/2002

RICHARD L. MARSH
4116 E. LATOKA
SPRINGFIELD, MO 65809

EXAMINER

FERGUSON, LAWRENCE D

ART UNIT

PAPER NUMBER

1774

DATE MAILED: 09/24/2002

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103-746-7178

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| Office Action Summary | Application No. | Applicant(s) | |
| | 09/694,136 | STRAUB ET AL. | |
| | Examiner | Art Unit | |
| | Lawrence D Ferguson | 1774 | |

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Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7-8-02.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ * Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment mailed July 08, 2002.

Claims 1-20 were amended and are pending.

Claim Rejections – 35 USC § 103(a)

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Suess et al. (U.S. 5,985,078) in view of Abrams (U.S. 5,908,527).

4. Suess discloses a metallic embossing foil (abstract) with carrier material that transfers colored layers on a surface (column 3, lines 42-44) conventionally used to wrap articles. Suess discloses a transparent layer applied to the colored layer applied by means of transfer foils which comprise a carrier film which are releasably disposed thereon to a hot embossing foil (column 3, lines 62-67). The reference discloses rolling a molded foil (column 4, lines 33-35) where the colored layer gives the foil a decorative pattern (column 4, lines 56-58 and column 7, lines 14-16). Suess discloses an adhesive

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layer on the foil (column 5, line 1). Suess does not disclose that the foil is used in foil wrapping of a substrate or as picture frame element or building trim piece.

These features are directed to intended use of the claimed invention, which is given little patentable weight. Suess does not disclose the foil being laminated. Additionally the foil of Suess is used to wrap articles. Picture frame elements and building trim pieces are articles and so are included by the reference.

Abrams teaches a printed foil laminate (abstract and column 2, lines 12-15).

Suess and Abrams are analogous art because they are from the same field of foils. It would have been obvious to one of ordinary skill in the art to laminate the embossed foil of Suess because Abrams teaches laminated foils maintain composure better during the rolling process.

Claim Rejections – 35 USC § 103(a)

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Abrams (U.S. 5,653,844) in view of Nelson (U.S. 4,724,026).

6. Abrams discloses a foil laminate with transfer printing (abstract) with impressions in the laminate (column 2, lines 4-5) leaving a decorative pattern with a suitable adhesive. Abrams discloses the molded foil laminate suitable to roll (column 2, lines 51-58 and column 4, lines 56-57) suitable to cover various packaging articles (column 7, lines 8-9). Abrams discloses a dry bond adhesive layer with an opaque colored material (column 7, lines 27-44). Suess does not disclose that the foil is used in foil

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wrapping of a substrate or as picture frame element or building trim piece. These

features are directed to intended use of the claimed invention, which is given little

patentable weight. Additionally the foil of Abrams is used to wrap articles. Picture frame elements and building trim pieces are articles and so are included by the reference.

Abrams does not disclose carrier stripped from the foil or clear and opaque properties.

Nelson teaches a metallic foil with a transfer sheet stripped away leaving a decorated sheet on the foil (column 2, lines 40-50) along with a clear or colored coating, a release coat and a carrier film (column 3, lines 39-42) on the foil. Abrams and Nelson are analogous art because they are from the same field of foils. It would have been obvious to one of ordinary skill in the art to include the carrier and release layers with clear or colored coatings in the foil laminate of Abrams because Nelson teaches these layers improve the decorative properties of the film rendering the foil more marketable.

Response to Arguments

7. Applicant's arguments of rejection under 35 USC 112, second paragraph have overcome the rejection due to amending claims 1-10 to render the claims definite.

Applicant's arguments of rejection under 35 USC 103(a) as unpatentable over Suess et al. (U.S. 5,985,078) in view of Abrams (U.S. 5,908,527) have been considered but are unpersuasive. Applicant argues the printed hot transfer foil etched by Suess is merely one of a multitude of hot transfer foils and is a lacquer, which is more commonly called an 'ink'. Applicant further argues the metallic foil is only recited as a carrier along

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with plastic carriers, not as the transfer coat. Examiner would like to direct Applicant's attention to column 3, lines 62-67 of Suess, disclosing a layer applied to a color layer by means of transfer foils which comprise a carrier film and are releasably disposed thereon to a hot embossing foil. Regardless of the argument, Suess in fact discloses a decorative film (column 4, lines 56-58) comprising a hot transfer foil which comprise a carrier film releasably disposed thereon to a hot embossing foil, where the molded foil is rolled (column 4, lines 33-35). Applicant argues embossing foils of Suess have a different function than that of the claimed invention, however Suess clearly discloses a hot embossing foil which is the same as in the instantly claimed invention, absent supported evidence by Applicant. Applicant seems to be interpreting the embossing foil of Suess as a common practice of transferring an ink or lacquer to a machine face, however fails to link the embossing foil of Suess to this practice according to the description of Suess's invention. Applicant argues the decorative pattern referred to in Suess cannot be asserted to include all decorative patterns as such an assertion would be greatly broadening the disclosure of Suess. Examiner disagrees because the decorative patterned film of Sues is no broader than Applicant's decorative patterned film and therefore has the same encompassing capability as that of the claimed invention. Applicant argues Suess does not decorate another decorative film. The film of Suess is conventionally used to wrap articles, which means the decorative film of Suess can be used to decorate another decorative film. Applicant alleges the improvement of Suess is to etch the outer layer(s) after transferring the ink and removing the carrier while the claimed invention provides a decorative wrapping film where the top coat *may*

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have been previously applied to the wrapping film, meaning that this limitation does not necessarily occur. Applicant argues the commonly known foils described in Sues are used to etch the outer layer but are used by Applicants to decorate another decorative surface, that is whether the film has a top coat or not. This argument is directed to the intended use of the reference and the claimed invention which is given little patentable weight. Applicant argues Abrams '527 uses the term 'foil' in the common sense of an aluminum foil sheet. Abrams '527 is used to support the conventionality of a printed foil laminate. Because, as Applicant indicates, Abrams teaches a multilayered laminate wherein both sides have printing thereon where one surface is adhered to another, it meets the limitations of the claimed invention. Applicant argues neither Abrams '527 nor '844 have a decorative wrapping film as it has no decoration. Because Abrams '844 discloses a foil laminate with transfer printing (abstract) with impressions in the laminate (column 2, lines 4-5) the foil in fact, does have a decoration.

Applicant's arguments of rejection under 35 USC 103(a) as unpatentable over Abrams (U.S. 5,653,844) in view of Nelson (U.S. 4,724,026) have been considered but are unpersuasive. Applicant argues Abrams '844 is an aluminum foil laminate and not a decorative wrapping film. Examiner disagrees because Abrams '844 discloses a foil laminate with transfer printing (abstract) with impressions in the laminate (column 2, lines 4-5) the foil in fact, does have a decoration. Applicant argues Nelson uses commercially available hot transfer foil where the hot transfer foil is a metallic pigmented hot transfer foil in place of ink layers and is not used as a wrapping film. Applicant argues Nelson is only a printed sheet. Examiner disagrees because Nelson teaches a

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a metallic foil with a transfer sheet stripped away leaving a decorated sheet on the foil (column 2, lines 40-50) along with a clear or colored coating, a release coat and a carrier film (column 3, lines 39-42) on the foil, meaning it is directed to more than simply a printed sheet.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lawrence Ferguson whose telephone number is (703) 305-9978. The examiner can normally be reached on Monday through Friday 8:30 AM – 4:30PM. If attempts to reach the examiner by telephone are unsuccessful, the

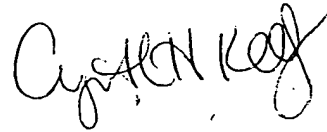
Art Unit: 1774

examiner's supervisor, Cynthia Kelly can be reached on (703) 308-0449. Please allow the examiner twenty-four hours to return your call.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2351.


Lawrence D. Ferguson
Examiner
Art Unit 1774

CYNTHIA H. KELLY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700



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RICHARD L MARSH
4116 E LATOKA
SPRINGFIELD, MO 65809-2921

(417) 887-3731

Account Number
Statement Date

5BV69225
09/28/02

Payment Method

You currently pay your MCI bill through your Local phone company bill each month.

Summary of Charges

| | |
|---------------------------------------|---------|
| Current Charges (See Service Summary) | \$14.45 |
| Current Taxes and Surcharges | \$0.73 |

| | |
|--|----------------|
| Total Current Charges, Taxes and Surcharges | \$15.18 |
|--|----------------|

Service Summary

| | |
|---|---------|
| MCI Calling Plan (08/28/02 to 09/27/02) | \$10.95 |
| Long Distance | \$0.70 |
| Other Fees | \$2.80 |

| | |
|------------------------------|----------------|
| Total Current Charges | \$14.45 |
|------------------------------|----------------|

Long Distance**Calls from 417-887-3731:**

| Date/Time | Place | Number | Rate | Min | ID | Amount |
|---------------------------------------|---------------|----------------|------|----------|----|---------------|
| Aug 29 11:21a | SPRINGFLD IL | (217) 206-7732 | D | 8 | | Plan |
| Aug 29 6:32p | OMAHA NE | (402) 554-3975 | D | 1 | | Plan |
| Sep 2 12:16p | SPRINGFLD IL | (217) 522-3978 | D | 1 | | Plan |
| Sep 2 4:38p | SPRINGFLD IL | (217) 522-3978 | D | 1 | | Plan |
| Sep 2 4:39p | SPRINGFLD IL | (217) 816-5001 | D | 1 | | Plan |
| Sep 12 6:10p | MANSFIELD MO | (417) 924-8440 | D | 2 | | Plan |
| Sep 13 6:44p | RAVENNA NE | (308) 452-4219 | D | 38 | | Plan |
| Sep 20 6:36p | RAVENNA NE | (308) 452-4219 | D | 17 | | Plan |
| Sep 24 12:28p | JEFFERSNCY MO | (573) 636-5231 | D | 2 | | Plan |
| Sep 24 12:52p | SPRINGFLD IL | (217) 206-7732 | D | 16 | | Plan |
| Sep 26 9:36a | THEODOSIA MO | (417) 273-5210 | D | 1 | | Plan |
| Sep 26 9:38a | KANSASCITY MO | (816) 561-0878 | D | 1 | | Plan |
| Total Calls from 417-887-3731: | | | | 0 | | \$0.00 |

Calls from 417-887-8441:

| Date/Time | Place | Number | Rate | Min | ID | Amount |
|---------------|---------------|----------------|------|-----|----|--------|
| Aug 29 11:56a | ALEXANDRIA VA | (703) 306-4523 | D | 2 | | Plan |
| Aug 29 12:34p | ALEXANDRIA VA | (703) 308-1202 | D | 8 | | Plan |
| Aug 30 11:07a | TROUTVILLE VA | (540) 992-5747 | D | 7 | | Plan |
| Aug 30 11:15a | OMAHA NE | (402) 554-3975 | D | 6 | | Plan |
| Aug 30 1:27p | KANSASCITY MO | (816) 931-8880 | D | 1 | | Plan |
| Sep 3 11:19a | ROGERS AR | (479) 631-1264 | D | 1 | | Plan |
| Sep 3 11:20a | ROGERS AR | (479) 619-9159 | D | 1 | | Plan |
| Sep 3 12:29p | BENTONVL AR | (479) 271-8382 | D | 6 | | Plan |
| Sep 3 1:54p | KANSASCITY MO | (816) 931-8880 | D | 2 | | Plan |
| Sep 4 9:45a | OMAHA NE | (402) 554-3975 | D | 7 | | Plan |
| Sep 6 12:03p | TIJERAS NM | (505) 286-3511 | D | 16 | | Plan |
| Sep 9 9:24a | ALEXANDRIA VA | (703) 308-1202 | D | 4 | | Plan |
| Sep 11 10:35a | COLUMBUS OH | (614) 237-2933 | D | 1 | | Plan |
| Sep 12 10:56a | ALEXANDRIA VA | (703) 308-1202 | D | 9 | | Plan |
| Sep 17 11:47a | ALEXANDRIA VA | (703) 308-1202 | D | 2 | | Plan |
| Sep 18 2:36p | RAVENNA NE | (308) 452-4219 | D | 15 | | Plan |


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|--------------------------------|--|----------------|---|---|--------|
| Sep 18 2:51p | SPRINGFLD IL | (217) 206-7732 | D | 6 | Plan |
| Sep 19 10:39a | ALEXANDRIA VA | (703) 308-1202 | D | 1 | Plan |
| Sep 23 2:57p | KANSASCITY MO | (816) 931-0878 | D | 1 | Plan |
| Sep 23 2:58p | KANSASCITY MO | (816) 561-0878 | D | 1 | Plan |
| Sep 24 9:24a | OMAHA NE | (402) 554-3975 | D | 6 | Plan |
| Sep 26 8:36a | ALEXANDRIA VA | (703) 308-1006 | D | 3 | Plan |
| Sep 26 8:57a | ALEXANDRIA VA | (703) 308-1006 | D | 2 | Plan |
| Sep 26 8:59a | ALEXANDRIA VA | (703) 308-7768 | D | 3 | Plan |
| | * Call continued at additional minute rate | | | 8 | 0.56 |
| Sep 26 9:15a | ALEXANDRIA VA | (703) 308-7768 | D | 2 | 0.14 |
| Total Calls from 417-887-8441: | | | | 2 | \$0.70 |

Total Long Distance: \$0.70
Total Minutes: 2

 Taxes and Surcharges

 Other Fees

 Rate Keys

 Important Account Information

Please [click here](#) to see important notices about your account that may not be contained in the online statement above. This link will allow you to see a complete online version of the paper invoice for this or any prior month.



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Account Information

RICHARD L MARSH
4116 E LATOKA
SPRINGFIELD, MO 65809-2921

(417) 887-3731

Account Number
Statement Date

5BV69225
10/28/02

Payment Method

You currently pay your MCI bill through your Local phone company bill each month.

Summary of Charges

Current Charges (See Service Summary) \$28.92
Current Taxes and Surcharges \$1.44

Total Current Charges, Taxes and Surcharges \$30.36

Service Summary

MCI Calling Plan (09/28/02 to 10/27/02) \$10.95
Long Distance \$1.05
International Long Distance \$11.09
Other Fees \$5.83

Total Current Charges \$28.92

Long Distance

Calls from 417-887-3731:

| Date/Time | Place | Number | Rate | Min | ID | Amount |
|---------------------------------------|---------------|----------------|------|-----------|----|---------------|
| Oct 3 12:31p | JEFFERSNCY MO | (573) 526-3669 | D | 1 | | Plan |
| Oct 7 8:24p | RAVENNA NE | (308) 452-4219 | N | 5 | | 0.35 |
| Oct 7 8:29p | KANSASCITY MO | (816) 561-0878 | N | 6 | | 0.42 |
| Oct 12 8:58p | SPRINGFLD NE | (402) 253-2401 | N | 2 | | 0.14 |
| Oct 17 2:16p | SPRINGFLD IL | (217) 206-7732 | D | 2 | | Plan |
| Oct 17 2:22p | SPRINGFLD IL | (217) 206-7732 | D | 1 | | Plan |
| Oct 17 2:35p | SPRINGFLD IL | (217) 206-7732 | D | 1 | | Plan |
| Oct 17 3:12p | SPRINGFLD IL | (217) 206-7732 | D | 5 | | Plan |
| Oct 20 8:50p | BRANSON MO | (417) 334-4500 | N | 1 | | 0.07 |
| Oct 26 10:28a | REEDS SPG MO | (417) 272-8908 | N | 1 | | 0.07 |
| Total Calls from 417-887-3731: | | | | 15 | | \$1.05 |

Calls from 417-887-8441:

| Date/Time | Place | Number | Rate | Min | ID | Amount |
|---------------------------------------|---------------|----------------|------|----------|----|---------------|
| Oct 1 11:47a | ST LOUIS MO | (314) 436-0080 | D | 2 | | Plan |
| Oct 2 2:04p | ALEXANDRIA VA | (703) 746-4000 | D | 4 | | Plan |
| Oct 3 12:36p | JEFFERSNCY MO | (573) 526-3669 | D | 8 | | Plan |
| Oct 14 9:33a | COLUMBIA MO | (573) 817-5463 | D | 1 | | Plan |
| Oct 15 4:10p | COLUMBIA MO | (573) 817-5463 | D | 4 | | Plan |
| Oct 15 4:16p | SPRINGFLD IL | (217) 206-7732 | D | 2 | | Plan |
| Oct 17 4:01p | COLUMBIA MO | (573) 874-1300 | D | 3 | | Plan |
| Oct 21 9:24a | DAYTON OH | (937) 438-8322 | D | 16 | | Plan |
| Oct 23 10:34a | ALEXANDRIA VA | (703) 305-9978 | D | 1 | | Plan |
| Oct 24 8:49a | LEBANON MO | (417) 532-4568 | D | 11 | | Plan |
| Oct 24 2:56p | JEFFERSNCY MO | (573) 257-1171 | D | 21 | | Plan |
| Total Calls from 417-887-8441: | | | | 0 | | \$0.00 |

Total Long Distance: \$1.05
Total Minutes: 15

International Long Distance

EXHIBIT N

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Account Information

RICHARD L MARSH
4116 E LATOKA
SPRINGFIELD, MO 65809-2921

(417) 887-3731

Account Number
Statement Date

5BV69225
11/28/02

Payment Method

You currently pay your MCI bill through your Local phone company bill each month.

Summary of Charges

Current Charges (See Service Summary) \$13.84
Current Taxes and Surcharges \$0.71

Total Current Charges, Taxes and Surcharges \$14.55

Service Summary

MCI Calling Plan (10/28/02 to 11/27/02) \$10.95
Long Distance \$0.14
Other Fees \$2.75

Total Current Charges \$13.84

Long Distance

Calls from 417-887-3731:

| Date/Time | Place | Number | Rate | Min | ID | Amount |
|---------------------------------------|---------------|----------------|------|-----|----|-----------------|
| Nov 5 4:14p | RAVENNA NE | (308) 452-4219 | D | 33 | | Plan |
| Nov 14 4:56p | SPRINGFLD IL | (217) 206-7732 | D | 3 | | Plan |
| Nov 18 7:43a | MONETT MO | (417) 236-4439 | D | 2 | | Plan |
| Nov 18 9:53a | PURDY MO | (417) 442-3543 | D | 1 | | Plan |
| Nov 18 4:08p | KANSASCITY MO | (816) 931-8880 | D | 1 | | Plan |
| Total Calls from 417-887-3731: | | | | | | 0 \$0.00 |

Calls from 417-887-8441:

| Date/Time | Place | Number | Rate | Min | ID | Amount |
|---------------|---------------|----------------|------|-----|----|--------|
| Oct 28 10:25a | ALEXANDRIA VA | (703) 305-9978 | D | 1 | | Plan |
| Oct 28 1:56p | ALEXANDRIA VA | (703) 746-7178 | D | 6 | | Plan |
| Oct 31 8:18a | ALEXANDRIA VA | (703) 308-1006 | D | 1 | | Plan |
| Oct 31 8:20a | ALEXANDRIA VA | (703) 308-7768 | D | 13 | | Plan |
| Oct 31 11:00a | ALEXANDRIA VA | (703) 308-2118 | D | 7 | | Plan |
| Oct 31 11:08a | ALEXANDRIA VA | (703) 306-5648 | D | 3 | | Plan |
| Oct 31 11:26a | ALEXANDRIA VA | (703) 306-5648 | D | 1 | | Plan |
| Nov 6 9:33a | STAFFORD VA | (540) 288-8228 | D | 16 | | Plan |
| Nov 6 11:57a | TIJERAS NM | (505) 286-3511 | D | 25 | | Plan |
| Nov 7 9:05a | ALEXANDRIA VA | (703) 746-7178 | D | 6 | | Plan |
| Nov 7 11:13a | MONETT MO | (417) 236-4439 | D | 3 | | Plan |
| Nov 11 9:04a | DAYTON OH | (937) 438-8322 | D | 1 | | Plan |
| Nov 11 1:42p | MONETT MO | (417) 236-4439 | D | 5 | | Plan |
| Nov 13 11:49a | MONETT MO | (417) 236-4439 | D | 5 | | Plan |
| Nov 14 4:07p | PURDY MO | (417) 442-3543 | D | 1 | | Plan |
| Nov 19 5:40p | KANSASCITY MO | (816) 931-8880 | D | 22 | | Plan |
| Nov 25 8:52a | STANLEY KS | (913) 851-1108 | D | 27 | | Plan |
| Nov 26 8:56a | WASHINGTON DC | (202) 939-5663 | D | 2 | | Plan |
| Nov 26 8:59a | CHICAGO IL | (312) 822-9485 | D | 6 | | Plan |
| Nov 26 9:23a | CHICAGO IL | (312) 822-9485 | D | 2 | | Plan |
| Nov 26 3:05p | EUGENE OR | (541) 335-5000 | D | 3 | | Plan |
| Nov 26 3:07p | EUGENE OR | (541) 335-5000 | D | 2 | | Plan |
| Nov 26 6:08p | ALEXANDRIA VA | (703) 308-7766 | D | 2 | | Plan |

EXHIBIT O

FOCUS ON PATENTS, INC.

4116 E. LATOKA

SPRINGFIELD, MISSOURI 65809

417-887-3731

Fax: 417-887-8441

TO: USPTO Group Art Unit 1774

10/28/2002


ATTN: Examiner Lawrence D. Ferguson

FAX #: (703) 746-7178

MESSAGE: Dear Examiner Ferguson:

As discussed in our phone conversation today, following are the drawings prepared by Applicants for understanding the Examiner's position in the first office action. These drawings were prepared using the drawings from Abrams, Suess, et al., and Nelson and are provided for the Examiner's use in clearly seeing the differences between the applied rejections and Applicants' disclosure.

Thank you.


Richard L. Marsh
REGISTRATION 31,437

pages including this one: 10

FROM: Richard L. Marsh

FAX # (417) 887-8441

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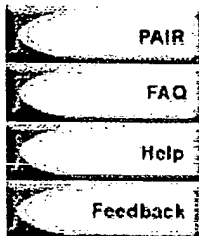


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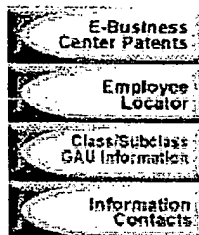
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| Search results for application number: 09/694,136 | | | |
|---|----------------------|-------------------------|---|
| Application Filing Date: | 10-23-2000 | Class / Sub-Class: | 428/195,000 |
| Issue Date of Patent: | | Location: | TECH CENTER 1700 - LIE TEAM 7, CP3, 11C17 |
| Examiner Name: | FERGUSON, LAWRENCE D | Status: | Response after Final Action Forwarded to Examiner |
| Group Art Unit: | 1774 | Attorney Docket Number: | 20003 |
| Earliest Publication No: | | Patent Number: | - |
| Earliest Publication Date: | | Customer Number: | 28133 |
| Confirmation Number: | 9008 | | |

Foreign Priority

Continuity Data

Publication Review

| File Contents History | | |
|-----------------------|------------|-----------------------------------|
| Number | Date | Contents Description |
| 15 | 12-20-2002 | Date Forwarded to Examiner |
| 14 | 11-07-2002 | Amendment after Final Rejection |
| 13 | 09-24-2002 | Mail Final Rejection (PTOL - 326) |
| 12 | 09-23-2002 | Final Rejection |
| 11 | 07-17-2002 | Date Forwarded to Examiner |
| 10 | 07-08-2002 | Response after Non-Final Action |
| 9 | 05-08-2002 | Mail Non-Final Rejection |
| 8 | 05-06-2002 | Non-Final Rejection |
| 7 | 03-26-2002 | Case Docketed to Examiner in GAU |
| 6 | 02-16-2001 | Case Docketed to Examiner in GAU |
| 5 | 01-19-2001 | Case Docketed to Examiner in GAU |
| 4 | 12-20-2000 | Application Dispatched from OIPE |
| 3 | 12-15-2000 | Correspondence Address Change |
| 2 | 11-29-2000 | Application Scanned |
| 1 | 10-23-2000 | Initial Exam Team nn |

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| Distance | Calls from 417-887-3731: | | | | | | | |
|----------|------------------------------------|-------|---------|--------------|------|--------------|-------|------------|
| | Item | Date | Time | Place Called | Area | Number | Rate* | Min Amount |
| | 5 | 12/03 | 12:44PM | JEFFERSNCY | MO | 573 522-3007 | D | 3 Plan |
| | 6 | 12/09 | 06:00PM | RAVENNA | NE | 308 452-4219 | D | 15 Plan |
| | 7 | 12/13 | 04:36PM | OGALLALA | NE | 308 289-0204 | D | 1 Plan |
| | 8 | 12/17 | 07:41AM | ALEXANDRIA | VA | 703 872-9309 | D | 1 Plan |
| | 9 | 12/17 | 07:42AM | ALEXANDRIA | VA | 703 308-0661 | D | 1 Plan |
| | 10 | 12/19 | 08:15AM | MONETT | MO | 417 236-4439 | D | 2 Plan |
| | 11 | 12/23 | 12:44PM | ALEXANDRIA | VA | 703 305-9978 | D | 2 Plan |
| | 12 | 12/24 | 09:13AM | SPRINGFLD | IL | 217 744-8082 | D | 13 Plan |
| | 13 | 12/24 | 09:26AM | SOKANSASCY | MO | 816 942-6100 | D | 2 Plan |
| | 14 | 12/24 | 09:28AM | KANSASCITY | MO | 816 561-0878 | D | 8 Plan |
| | 15 | 12/25 | 10:51AM | SPRINGFLD | IL | 217 744-8082 | D | 8 Plan |
| | 16 | 12/25 | 11:01AM | SPRINGFLD | IL | 217 744-8082 | D | 3 Plan |
| | Total Calls from 417-887-3731: .00 | | | | | | | |

| Calls from 417-887-8441: | | | | | | | | |
|--------------------------|----|-------|---------|------------|----|--------------|---|---------|
| | 17 | 11/28 | 12:44PM | ALEXANDRIA | VA | 703 308-7766 | D | 3 Plan |
| | 18 | 12/03 | 03:03PM | CHICAGO | IL | 312 832-9485 | D | 1 Plan |
| | 19 | 12/03 | 03:04PM | CHICAGO | IL | 312 822-9485 | D | 24 Plan |
| | 20 | 12/03 | 03:36PM | CHICAGO | IL | 312 822-0413 | D | 2 Plan |
| | 21 | 12/03 | 04:06PM | CHICAGO | IL | 312 822-9485 | D | 12 Plan |
| | 22 | 12/03 | 05:08PM | CHICAGO | IL | 312 822-0413 | D | 2 Plan |
| | 23 | 12/05 | 04:22PM | TIJERAS | NM | 505 286-3511 | D | 5 Plan |
| | 24 | 12/06 | 08:49AM | ALEXANDRIA | VA | 703 308-0839 | D | 2 Plan |
| | 25 | 12/13 | 08:14AM | ALEXANDRIA | VA | 703 306-0180 | D | 4 Plan |
| | 26 | 12/13 | 08:56AM | ALEXANDRIA | VA | 703 746-9617 | D | 3 Plan |

ig Questions:
0-R15-2430

MCI

| ig Distance (ntinued) | | Calls from 417-887-8441: | | | | | | | | | |
|-------------------------------------|------|--------------------------|---------|--------------|----|------|----------|-------|-----|--------|--|
| | Item | Date | Time | Place Called | | Area | Number | Rate* | Min | Amount | |
| | 27 | 12/13 | 11:30AM | ALEXANDRIA | VA | 703 | 305-9978 | D | 3 | Plan | |
| | 28 | 12/16 | 02:37PM | KANSASCITY | MO | 816 | 931-8880 | D | 1 | Plan | |
| | 29 | 12/16 | 03:03PM | LICKING | MO | 573 | 674-4488 | D | 1 | Plan | |
| | 30 | 12/17 | 07:32AM | ALEXANDRIA | VA | 703 | 872-9310 | D | 9 | Plan | |
| | 31 | 12/17 | 07:47AM | ALEXANDRIA | VA | 703 | 872-9310 | D | 17 | Plan | |
| | 32 | 12/18 | 09:02AM | LICKING | MO | 573 | 674-4488 | D | 2 | Plan | |
| | 33 | 12/19 | 02:56PM | PURDY | MO | 417 | 442-3996 | D | 9 | Plan | |
| | 34 | 12/19 | 03:13PM | ALEXANDRIA | VA | 703 | 305-7687 | D | 18 | Plan | |
| | 35 | 12/19 | 03:57PM | ALEXANDRIA | VA | 703 | 305-7687 | D | 2 | Plan | |
| | 36 | 12/20 | 09:21AM | ALEXANDRIA | VA | 703 | 305-7803 | D | 2 | Plan | |
| | 37 | 12/20 | 09:57AM | ALEXANDRIA | VA | 703 | 305-8263 | D | 6 | Plan | |
| | 38 | 12/20 | 10:03AM | ALEXANDRIA | VA | 703 | 308-6789 | D | 3 | Plan | |
| | 39 | 12/20 | 10:05AM | ALEXANDRIA | VA | 703 | 308-6789 | D | 4 | Plan | |
| | 40 | 12/20 | 10:26AM | ALEXANDRIA | VA | 703 | 578-6812 | D | 2 | Plan | |
| | 41 | 12/20 | 04:04PM | BRANSON | MO | 417 | 230-0343 | D | 1 | Plan | |
| | 42 | 12/23 | 04:25PM | SPRINGFLD | IL | 217 | 206-7732 | D | 18 | 1.05 | |
| | 43 | 12/23 | 10:46PM | ALEXANDRIA | VA | 703 | 872-9311 | N | 8 | .56 | |
| | 44 | 12/24 | 01:54PM | OMAHA | NE | 402 | 554-3975 | D | 19 | 1.33 | |
| | 45 | 12/24 | 02:53PM | ALEXANDRIA | VA | 703 | 746-4000 | D | 5 | .35 | |
| | 46 | 12/25 | 12:04PM | SPRINGFLD | IL | 217 | 744-8082 | D | 6 | .42 | |
| | 47 | 12/25 | 12:19PM | ELMENDORF | TX | 210 | 635-8101 | D | 2 | .14 | |
| | 48 | 12/25 | 05:09PM | MIDLOTHIAN | TX | 972 | 723-0292 | D | 22 | 1.54 | |
| | 49 | 12/26 | 12:25PM | RAYTOWN | MO | 816 | 382-6233 | D | 4 | .28 | |
| | 50 | 12/26 | 12:28PM | KANSASCITY | MO | 816 | 221-6420 | D | 2 | .14 | |
| Total Calls from 417-887-8441: 5.81 | | | | | | | | | | | |
| Total Long Distance 5.81 | | | | | | | | | | | |

ther Fees 51 Instate Access Recovery Fee 1.95

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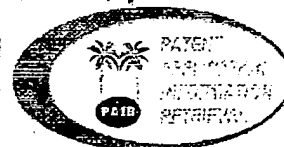
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Search results for application number: 09/694,136

| | | | |
|----------------------------|----------------------|-------------------------|----------------------------------|
| Application Filing Date: | 10-23-2000 | Class / Sub-Class: | 428/195.000 |
| Issue Date of Patent: | - | Location: | TC 1700 CENTRAL FILES, CP3-10C24 |
| Examiner Name: | FERGUSON, LAWRENCE D | Status: | Advisory Action Mailed |
| Group Art Unit: | 1774 | Attorney Docket Number: | 20003 |
| Earliest Publication No: | - | Patent Number: | - |
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Foreign Priority

Continuity Data

Publication Review

File Contents History

| Number | Date | Contents Description |
|--------|------------|-----------------------------------|
| 23 | 02-12-2003 | Mail Advisory Action (PTOL - 303) |
| 22 | 02-10-2003 | Advisory Action (PTOL-303) |
| 21 | 02-03-2003 | Date Forwarded to Examiner |
| 20 | 01-30-2003 | Supplemental Response |
| 19 | 01-10-2003 | Mail Advisory Action (PTOL - 303) |
| 18 | 01-10-2003 | Advisory Action (PTOL-303) |
| 17 | 01-02-2003 | Date Forwarded to Examiner |
| 16 | 12-23-2002 | Amendment after Final Rejection |
| 15 | 12-20-2002 | Date Forwarded to Examiner |
| 14 | 11-07-2002 | Amendment after Final Rejection |
| 13 | 09-24-2002 | Mail Final Rejection (PTOL - 326) |
| 12 | 09-23-2002 | Final Rejection |
| 11 | 07-17-2002 | Date Forwarded to Examiner |
| 10 | 07-08-2002 | Response after Non-Final Action |
| 9 | 05-08-2002 | Mail Non-Final Rejection |
| 8 | 05-06-2002 | Non-Final Rejection |
| 7 | 03-26-2002 | Case Docketed to Examiner in GAU |
| 6 | 02-16-2001 | Case Docketed to Examiner in GAU |
| 5 | 01-19-2001 | Case Docketed to Examiner in GAU |
| 4 | 12-20-2000 | Application Dispatched from OIPE |
| 3 | 12-15-2000 | Correspondence Address Change |
| 2 | 11-29-2000 | Application Scanned |
| 1 | 10-23-2000 | Initial Exam Team nn |

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EXHIBIT S

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Account Information

RICHARD L MARSH
4116 E LATOKA
SPRINGFIELD, MO 65809-2921

(417) 887-3731

Account Number
Statement Date

5BV69225
02/28/03

Payment Method

You currently pay your MCI bill through your Local phone company bill each month.

Summary of Charges

| | |
|---------------------------------------|---------|
| Current Charges (See Service Summary) | \$24.57 |
| Current Taxes and Surcharges | \$1.59 |

| | |
|--|----------------|
| Total Current Charges, Taxes and Surcharges | \$26.16 |
|--|----------------|

Service Summary

| | |
|---|---------|
| MCI Calling Plan (01/28/03 to 02/27/03) | \$12.95 |
| Long Distance | \$5.09 |
| Other Fees | \$6.53 |

| | |
|------------------------------|----------------|
| Total Current Charges | \$24.57 |
|------------------------------|----------------|

Long Distance

Calls from 417-887-3731:

| Date/Time | Place | Number | Rate | Min | ID | Amount |
|---------------------------------------|------------|----------------|------|----------|----|---------------|
| Feb 13 11:14a | BRANSON MO | (417) 339-5320 | D | 2 | | Plan |
| Feb 17 5:55p | RAVENNA NE | (308) 452-4219 | D | 25 | | Plan |
| Total Calls from 417-887-3731: | | | | 0 | | \$0.00 |

Calls from 417-887-8441:

| Date/Time | Place | Number | Rate | Min | ID | Amount |
|---------------|--|----------------|------|-----|----|--------|
| Jan 30 6:19p | ALEXANDRIA VA | (703) 872-9311 | D | 8 | | Plan |
| Jan 31 10:35a | N WALTERBO SC | (843) 538-5941 | D | 2 | | Plan |
| Jan 31 3:23p | N DEERING ME | (207) 878-2715 | D | 9 | | Plan |
| Jan 31 6:01p | WAYNESVL NC | (828) 456-5888 | D | 39 | | Plan |
| Feb 3 2:49p | ALEXANDRIA VA | (703) 872-9310 | D | 10 | | Plan |
| Feb 3 3:28p | OMAHA NE | (402) 554-3975 | D | 6 | | Plan |
| Feb 5 11:34a | ALEXANDRIA VA | (703) 872-9318 | D | 8 | | Plan |
| Feb 5 11:57a | AURORA MO | (417) 678-2947 | D | 4 | | Plan |
| Feb 5 1:11p | ALEXANDRIA VA | (703) 746-4000 | D | 6 | | Plan |
| Feb 6 9:21a | ALEXANDRIA VA | (703) 746-4000 | D | 6 | | Plan |
| Feb 6 11:00a | KANSASCITY MO | (816) 931-8880 | D | 1 | | Plan |
| Feb 6 4:05p | ALEXANDRIA VA | (703) 872-9303 | D | 10 | | Plan |
| Feb 7 11:18a | ALEXANDRIA VA | (703) 872-9303 | D | 7 | | Plan |
| Feb 8 10:59a | WESTPLAINS MO | (417) 256-1691 | N | 8 | | 0.56 |
| Feb 10 9:10a | ALEXANDRIA VA | (703) 746-4000 | D | 3 | | Plan |
| Feb 10 6:39p | ALEXANDRIA VA | (703) 746-4000 | D | 6 | | Plan |
| Feb 14 9:48a | ALEXANDRIA VA | (703) 308-1955 | D | 1 | | Plan |
| Feb 17 3:54p | PURDY MO | (417) 442-3996 | D | 33 | | Plan |
| Feb 19 7:41a | ALEXANDRIA VA | (703) 308-0449 | D | 1 | | Plan |
| Feb 19 11:36a | TIJERAS NM | (505) 286-3511 | D | 13 | | Plan |
| | * Call continued at additional minute rate | | | 8 | | 0.72 |
| Feb 21 9:33a | PHOENIX AZ | (602) 233-0071 | D | 3 | | 0.27 |
| Feb 21 4:55p | ALEXANDRIA VA | (703) 872-9311 | D | 26 | | 2.34 |
| Feb 21 5:26p | PHOENIX AZ | (602) 233-0071 | D | 1 | | 0.09 |
| Feb 25 4:08p | PURDY MO | (417) 442-3113 | D | 1 | | 0.07 |
| Feb 25 4:21p | PHOENIX AZ | (602) 233-0071 | D | 1 | | 0.09 |
| Feb 25 4:40p | KANSASCITY MO | (816) 931-8880 | D | 1 | | 0.07 |

3/14/2003 11:08:56 AM 1

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|---------------------------------------|---------------|----------------|---|-----------|---------------|
| Feb 26 10:16a | PHOENIX AZ | (602) 233-0071 | D | 3 | 0.27 |
| Feb 26 10:24a | ALEXANDRIA VA | (703) 305-6316 | D | 6 | 0.54 |
| Feb 26 10:30a | KANSASCITY MO | (816) 931-8880 | D | 1 | 0.07 |
| Total Calls from 417-887-8441: | | | | 51 | \$5.09 |

Total Long Distance: \$5.09
Total Minutes: 51

Taxes and Surcharges

| | |
|-----------------------------------|--------|
| Federal Excise Tax | \$0.67 |
| State & Local Taxes | \$0.56 |
| Federal, State & Local Surcharges | \$0.36 |

Total Current Taxes and Surcharges **\$1.59**

Other Fees

| | |
|-------------------------------|--------|
| Instate Access Recovery Fee | \$1.95 |
| Federal Universal Service Fee | \$2.08 |
| Billing Option Fee | \$2.50 |

Total Other Fees **\$6.53**

Rate Keys

| | |
|---|----------|
| D | Peak |
| N | Off-Peak |

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